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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,820	11/24/2003	Tsutomu Okada	P/3541-50	8000

2352 7590 08/11/2005

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NEW YORK, NY 100368403

EXAMINER

VRETTAKOS, PETER J

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/723,820

Applicant(s)

OKADA, TSUTOMU

Examiner

Peter J. Vrettakos

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-9 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 2-2-04.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The application is related to Japanese Application 2002-341001 filed 11-25-02.

Claims 1-9 are pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5,7-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Avitall (5,555,883).

Avitall discloses a device (figures 3a, 6b, and 7a) nearly identical to the Applicant's claimed invention. Avitall discloses a sheath (52), an actuating member (18, *inter alia*), and a tilted wire deployable loop (120, 162).

Note the similarities in the Applicant's figures 1, 2a, 4 and 6 to Avitall's figures 3a, 6b, and 7a.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (6,093,185) or Laufer et al. (6,283,988) or Chia et al. (5,897,554).

Claims 2, 6, 9 describe dimensions, which would have been obvious in light of the prior art and determined (presuming the Applicant's claimed dimensions are optimal) through routine experimentation.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ellis et al. (6,402,740) (6,093,185) Laufer (6,283,988), Chia et al. (5,897,554), and Avitall (5,263,493) (5,730,704).

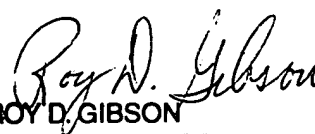
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos  
August 6, 2005

  
ROY D. GIBSON  
PRIMARY EXAMINER